


Basics of EEO for Managers and Supervisors



WHAT IS EEO?

- ❖ Equal Employment Opportunity
- ❖ Fair Consideration
- ❖ No Discrimination
- ❖ No Harassment
- ❖ Reasonable Accommodation
- ❖ Resolving Disputes



EEO LAWS

- ❖ Title VII of the Civil Rights Act of 1964
- ❖ Age Discrimination in Employment Act of 1967
- ❖ Rehabilitation Act of 1973
- ❖ Equal Pay Act of 1963



TITLE VII

Covers: Race
 Color
 Religion
 Sex
 National Origin
 Reprisal

*All phases of employment are covered.



AGE DISCRIMINATION IN EMPLOYMENT ACT

- ❖ Covers individuals age 40 and over
- ❖ No upper age limit
- ❖ All phases of employment covered
- ❖ Reprisal



REHABILITATION ACT

- ❖ Prohibits discrimination against qualified individuals with a mental or physical disability
- ❖ Reprisal



EQUAL PAY ACT

- ❖ Prohibits gender-based wage differences for men and women performing substantially equal work
- ❖ Reprisal
- ❖ Defenses:
 - Seniority system
 - Merit system
 - Production quality or quantity
 - Factor other than sex



COVERAGE-FEDERAL LAWS

*All phases of employment---recruitment, hiring, evaluation, promotion, transfer, assignment, training, benefits and separation shall be conducted in compliance with EEO laws and regulations.



EEO COMPLAINT PROCESS

- ❖ Contact OCR within 45 calendar days of allege discriminatory act
- ❖ EEO Informal Counseling
- ❖ File Formal Complaint
- ❖ Investigation
- ❖ Final Agency Decision or Hearing (exception-mixed case)
- ❖ Appeal Rights



WHAT IS DISCRIMINATION?

Basing employment decisions on illegal EEO basis instead of on merit, experience, qualifications

Applies to all aspects of employment:

- hiring
- terms and conditions
- benefits and privileges
- post employment



RACE DISCRIMINATION

Difference in treatment based upon race





COLOR DISCRIMINATION

Difference in treatment based upon color





SEX DISCRIMINATION

- ❖ Glass ceiling issues
- ❖ Pregnancy
- ❖ Job segregation
- ❖ Sexual favoritism
- ❖ Harassment
- ❖ Sexual Harassment



RELIGIOUS DISCRIMINATION

- ❖ Sincere religious beliefs
- ❖ Dress codes
- ❖ Religious expression
- ❖ Atheists/agnostics covered



RELIGIOUS ACCOMMODATION

- ❖ Belief conflicts with work requirements
- ❖ Duty to reasonably accommodate
- ❖ Employee must inform employer of belief/practice in conflict with job duty
- ❖ Undue Hardship – *De Minimis*



NATIONAL ORIGIN DISCRIMINATION

- ❖ Physical, linguistic or cultural characteristics
- ❖ Language and accent
- ❖ Ethnic slurs and epithets



AGE DISCRIMINATION 40 or OLDER

- ❖ Stereotypes and misconceptions about abilities
- ❖ Appearance
 - Retirement eligibility
 - Years of experience
 - Dated education or training



RETALIATION

- ❖ Opposition or Participation
- ❖ Action likely to deter
- ❖ Connection
 - Timing
 - Employer cannot justify action or treats others differently



DISABILITY DISCRIMINATION

- ❖ Assumptions and generalizations
- ❖ Fear
- ❖ Lack of awareness
- ❖ Resistance to individuals deemed "different"



DEFINITION OF DISABILITY

- ❖ Physical or mental impairment that substantially limits a major life activity
- ❖ Record of impairment that . . .
- ❖ Regarded as having impairment that . . .



What Does "QUALIFIED" Mean?

- ❖ Skills, experience, education
- ❖ Perform essential functions with or without a reasonable accommodation
- ❖ Only qualified individuals with disabilities are entitled to a reasonable accommodation



REASONABLE ACCOMMODATION

- ❖ Purpose: remove barriers to equal employment opportunity
- ❖ Process:
 - Employee/Applicant makes request
 - Interactive Process
- ❖ Undue Hardship



REASONABLE ACCOMMODATION PROCESS

- ❖ Request submitted to agency official
- ❖ Up to 15 business days to respond
- ❖ Disability Program Manager can provide assistance
- ❖ First line supervisor or Division Director respond to simple requests



REASONABLE ACCOMMODATION PROCESS (cont' d)

Disability Program Manager processes requests for:

- Adaptive equipment
- Interpreters or readers
- Reconfiguration of workspace
- Accessible parking
- Materials in alternative format
- Reassignment
- Computer/Electronic Accommodation Program (CAP)–www.tricare.osd.mil/cap



OBTAINING MEDICAL INFORMATION

- ❖ If need obvious . . . NO
- ❖ If need not obvious, individual must provide information about disability and functional limitations
- ❖ Disability Program Manager
 - Makes request for information
 - Evaluates sufficiency



MEDICAL INFORMATION

- ❖ Limits on seeking medical information during application process and during employment
- ❖ Limits on disclosing medical information once obtained
- ❖ Must be maintained separately and confidentially – DO NOT co-mingle



DENYING A REQUEST

- ❖ Denial Request form
- ❖ Clear explanation of reason(s)
- ❖ Undue hardship
- ❖ Alternative accommodations can be suggested
- ❖ Appeal rights
- ❖ EEO process



HARASSMENT

- ❖ Unwelcome Conduct Based on Protected Basis
- ❖ Tangible Job Action
- OR
- ❖ Hostile Environment
- ❖ Basis for Employer Liability



EMPLOYER LIABILITY FOR HARASSMENT

- ❖ Tangible Job Action – Automatic Liability
- ❖ Hostile Environment by Supervisor
 - Failed to Prevent or Correct Immediately AND
 - No Reasonable Care by Victim to Avoid
- ❖ Hostile Environment by Co-Worker
 - Knew or Should Have Known
 - Failed to Correct Immediately
 - Same standard for contractor



EXAMPLES OF TANGIBLE JOB ACTION

- ❖ Significant change in employee's employment status
 - Termination
 - Demotion
 - Undesirable reassignment
 - Denial of pay rises/awards
 - Unacceptable performance review



REMEDIES IF DISCRIMINATION FOUND

- ❖ All Statutes and Executive Order
 - Equitable Relief
 - Notification to All Employees
 - Discipline
- ❖ Title VII & Rehabilitation Act Only:
 - Compensatory Damages
 - Attorney's Fees and Costs
- ❖ ADEA and EPA Only:
 - Liquidated Damages



WHEN SOMETHING HAPPENS...

- ❖ EEO Process
- ❖ Negotiated Grievance Process
- ❖ Administrative Grievance Process
 - Labor and Employment Relations



WHO CAN FILE?

- ❖ Employees
- ❖ Applicants
- ❖ Former Employees





EEO PROCESS

- ❖ Contact EEO Officer or EEO Counselor within
45 calendar days
- ❖ EEO counseling or mediation
- ❖ Formal complaint
- ❖ Dismissal
- or*
- ❖ Acceptance and investigation
- ❖ Report of Investigation



EEO PROCESS (cont'd)

- ❖ Elect:
 - Hearing before EEOC Administrative Judge
- or*
- Final Decision from Office of Civil Rights
- ❖ Appeal rights to:
 - EEOC Office of Federal Operations
 - U.S. District Court



WHAT IF...

- ❖ EEO Counselor contacts you
 - Don't jump to conclusions
 - Be open to possible resolutions
 - If challenged decision is justified . . .
- ❖ Named in a formal complaint
 - Be truthful to EEO Investigator
 - May give testimony
 - DON'T Retaliate



OFFICIAL TIME

- ❖ Employees entitled to reasonable amount of time for EEO matters
- ❖ No hard definition of "reasonable"
 - Circumstances of case
 - Needs of the IBB
- ❖ Employee submits request to Supervisor
- ❖ If denied, must be in writing and forwarded to Office of Civil Rights



ALTERNATIVE DISPUTE RESOLUTION (ADR)

- ❖ Resolving disputes without formal process
- ❖ Available at every stage of EEO process
- ❖ Voluntary for Complainants
 - If individual elects ADR and matter accepted, management will participate in good faith
- ❖ Mediation



WHY ADR?

- ❖ Continue a relationship
- ❖ Overcome barriers to communication
- ❖ Exchange information and perceptions
- ❖ Resolve non-EEO matters
- ❖ Joint problem-solving, creative solutions, and flexibility
- ❖ Participation of a neutral



MEDIATION

Fast

Fair

Neutral

Confidential



SETTLEMENT AGREEMENTS

- ❖ Mutual
- ❖ Binding
- ❖ Legally Enforceable
- ❖ Appeal Rights if Breached
- ❖ No Admission of Guilt or Blame
- ❖ Can be Confidential



REMEDIES IN ADR

- | | |
|--------------------------|------------------------|
| ❖ Apology | ❖ Training |
| ❖ Greeting | ❖ TDY |
| ❖ Change of duties | ❖ Promotion |
| ❖ Priority Consideration | ❖ Back pay |
| ❖ Reassignment | ❖ Attorney's fees |
| ❖ Travel | ❖ Compensatory Damages |



MANAGERS AND SUPERVISORS RESPONSIBILITY

- ❖ Be familiar and follow agency policies and procedures
- ❖ Examine personal behavior
- ❖ Set a positive example
- ❖ Identify possible behaviors in work place that requires preventive or corrective actions
- ❖ When in doubt contact Office of Civil Rights!!!



ORGANIZATION'S RESPONSIBILITY

- ❖ Provide environment free of intimidation, hostility and/or discrimination
- ❖ Communicate organization's policies on prevention of discrimination
- ❖ Take corrective action when necessary
- ❖ Hold employees accountable for their actions



DISCIPLINARY MEASURES

- ❖ Any employee subject to disciplinary action
- ❖ Range of disciplinary penalties includes:
 - Demotion
 - Suspension
 - Removal



RESOURCES

- ❖ EEO/Office of Civil Rights
- ❖ EEO Counselors
- ❖ Office of Human Resources
- ❖ Supervisors and Managers
- ❖ Employee Assistance Program